

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
(Big Stone Gap Division)

APR 22 2004

JOHN F. CORCORAN, CLERK
BY: *[Signature]*
DEPUTY CLERK

A. F. McCAULEY,

Plaintiffs,

v.

PURDUE PHARMA L.P., *et al.*,

Defendants.

Civil Action No. 2:01CV00080

CONSOLIDATED WITH

CHARLES C. BRUMMETT, *et al.*,

Plaintiffs,

v.

PURDUE PHARMA L.P., *et al.*,

Defendants.

Civil Action No. 2:02CV00054

MOTION TO COMPEL DEPOSITION OF RICHARD C. NORTON, M.D.

COME NOW Plaintiffs Arnold F. McCauley, Charles C. Brummett, Joseph Deckard and William C. Matney (collectively "Plaintiffs"), by and through their undersigned counsel, and pursuant to Rule 45 of the Federal Rules of Civil Procedure, hereby move the Court to permit the deposition upon oral examination of Dr. Richard C. Norton, a federal prisoner. In support of, Plaintiffs state the following:

1. This action arises from the manufacture, marketing, and sale of the drug OxyContin.

2. Dr. Norton prescribed OxyContin to Plaintiffs McCauley and Brumett.

3. During the time Dr. Norton prescribed OxyContin to Plaintiffs McCauley and Brumett he was visited by the Purdue Defendants' marketing representatives, and thus is believed to have substantial discoverable knowledge regarding their marketing practices. Additionally, documents produced by Defendants reveal multiple sales calls were made by Defendants on Dr. Norton and discussions with Dr. Norton regarding OxyContin. *See* Exhibit A, attached hereto under seal. Furthermore, Dr. Norton apparently has spoken with management of Defendants regarding the narcotic, OxyContin. *See* Exhibit B, excerpts from Barry Meier, *Pain Killer*(2003).

4. Dr. Norton is currently incarcerated at Edgefield Federal Correctional Institution in Edgefield, South Carolina ("Prison").

5. By Order of this Court dated February 26, 2004, Richard Norton, M.D. Plaintiffs were allowed to depose Dr. Norton. Dr. Norton was duly served with a subpoena for deposition on April 2, 2004, set for 10:00 a.m., Friday, April 17, 2004 at the Prison. *See* Exhibit C, Subpoena- Return of Service.

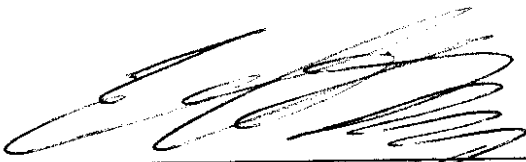
6. On April 17, 2004, counsel for Plaintiffs appeared at the Prison as did two lawyers for Defendants. Dr. Norton was presented at the hour of the deposition by Prison authorities. However, Dr. Norton stated that he had a number of questions prior to going forward with the deposition. Further, Dr. Norton revealed that on April 16, 2004, he was visited by attorneys for Defendants and stated that he felt "threatened" by something said to him by attorneys for Defendant. After discussion with Dr. Norton, he refused to submit to deposition. Dr. Norton also stated that he would consider going forward with the deposition if an order of the Court requiring his deposition testimony was issued.

7. Plaintiffs' counsel conferred with Defendants' counsel concerning this motion and this motion is unopposed.

WHEREFORE, the Plaintiffs respectfully request this Court to enter an order compelling Richard Norton, M.D.'s testimony in this case.

Respectfully submitted,

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JOSEPH DECKARD
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By Counsel



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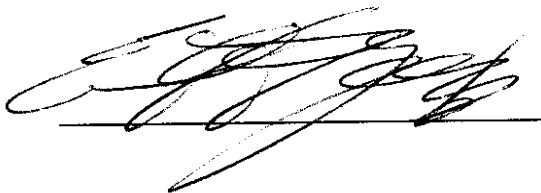
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CERTIFICATE OF SERVICE

I hereby certify that a copy of Plaintiffs' Motion to Compel Deposition of Richard C. Norton, M.D was served this 29th day of April 2004, via facsimile and first-class mail, postage prepaid on,

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Counsel for Purdue Pharma, L.P., Purdue Pharma, Inc., the Purdue Frederick Co., Purdue Pharma Company and the P.F. Laboratories, Inc.

A handwritten signature in black ink, appearing to be "W. W. Eskridge", written over a horizontal line.